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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,747	11/09/2001	Theodore R. O'Hagen	OHA-001	7397

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EXAMINER

KEENAN, JAMES W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,747

Applicant(s)

O'HAGEN, THEODORE R.

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-17 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-10 is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/18/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 23-27 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11, 13, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by McQueen (US 3,450,437, of record).

McQueen shows a vehicle having a support member 1, bed 10 coupled to the support member, movable in a first direction relative to the vehicle, and pivotable about a point adjacent to the rear edge of the support member, and arms 31 coupled to the support member via rollers 33-34 and to the bed "at the front end", as broadly claimed, the arms moving linearly as they and the bed roll along and above the support member in the first direction until the rollers encounter stops 41 which cause the arms to pivot and thus tilt the bed relative to the vehicle, as seen in figure 1.

4. Claims 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Trueblood (US 6,077,024, of record).

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Trueblood shows a vehicle having a support surface 15, 25, bed 11, and arms 21, 23 coupled, at least indirectly, to the support member at one end and to the front end of the bed, and which are constrained to move linearly at a first location of the vehicle to move the bed along and above the support surface in a first direction and are constrained to rotary motion at a second location of the vehicle to tilt the bed, as seen in figures 8b and 8c.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trueblood in view of Dixon et al (US 6,099,232, of record).

Trueblood does not show the support member movable relative to the vehicle.

Dixon et al show a vehicle having a movable support member 130 coupled to and movable in a first direction relative to frame 120, bed 110, 112 movable adjacent to the upper surface of the support member in the first direction and pivotable about an axis adjacent the rear edge of the support member, and arms 136 coupled to the bed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Trueblood by utilizing a movable support

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member, as shown by Dixon et al, for greater efficiency and flexibility during loading and unloading.

Re claim 14, although Dixon et al show the tailgate to be removed, it would have been a mere design expediency to have included the tailgate disclosed by Trueblood such that the support member moved over the tailgate.

7. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McQueen in view of Dixon et al.

McQueen does not show the support member movable relative to the vehicle.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of McQueen by utilizing a movable support member, as shown by Dixon et al, for greater efficiency and flexibility during loading and unloading.

8. Applicant's arguments filed 12/18/03 have been fully considered but they are not persuasive.

Applicant argues that McQueen shows the lifting arms attached near the middle of the support member. While this may be true, they are nevertheless clearly coupled to the front portion of the bed, assuming the bed is divided evenly into front and rear portions. Nothing in applicant's claim sets forth the structure of the bed with sufficient specificity as to preclude such an interpretation. Furthermore, even if the claims were

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amended so as to more precisely define the location of the arms, modifying McQueen to include such a limitation would have been a mere design expediency.

Applicant also argues that Trueblood fails to show that the bed is disposed above the support member, asserting that the arms are mounted near the top of the side walls. Again, while this is true, the claims are not so limiting as to preclude the support member from including not only the horizontal surface 15, 25 of the vehicle, above which the bed is clearly disposed, but also the side walls. Thus, as previously set forth, the arms are at least indirectly coupled to the support surface, even though the bed is not disposed above the portion of the support surface to which the arms are coupled. Just as applicant argues that the recitation of "an arm" does not limit the claims to a single arm, the recitation of "a support member" does not limit the claims to a single member.

9. Claims 1 and 3-10 are allowed.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk

2/24/04